

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 70, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, line 3, delete "section 515" and insert "IC 24-4.5-3.5-5,".
- 2 Page 1, line 4, delete "of this chapter,".
- 3 Page 4, line 21, delete "section 515" and insert "IC 24-4.5-3.5-5,".
- 4 Page 4, line 22, delete "of this chapter,".
- 5 Page 5, between lines 34 and 35, begin a new paragraph and insert:
- 6 "SECTION 3. IC 24-4.5-3.5 IS ADDED TO THE INDIANA CODE
- 7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 8 UPON PASSAGE]:
- 9 Chapter 3.5. Supervised Small Installment Loans
- 10 Sec. 1. Except as otherwise provided, all provisions of this article
- 11 applying to consumer loans apply to supervised small installment
- 12 loans, as defined in this chapter.
- 13 Sec. 2. As used in this chapter, "supervised small installment
- 14 loan" refers to an unsecured supervised loan (as defined in
- 15 IC 24-4.5-3-501(1)) that:
- 16 (1) is made after March 28, 2006;
- 17 (2) is for a principal amount of at least two hundred dollars
- 18 (\$200) but not more than one thousand dollars (\$1,000);
- 19 (3) has a minimum term of four (4) months;
- 20 (4) has a maximum term of twelve (12) months; and
- 21 (5) is payable in substantially equal monthly installments at

1 equal periodic intervals.

2 **Sec. 3. As used in this chapter, "supervised lender" includes:**

3 (1) all persons licensed to make loans under this article or any
4 person who facilitates, enables, or acts as a conduit for any
5 lender who is or may be exempt from licensing under
6 IC 24-4.5-3-502;

7 (2) a bank, savings association, credit union, or other state or
8 federally regulated financial institution, except those that are
9 specifically exempt regarding limitations on interest rates and
10 fees; or

11 (3) a person, if the department determines that a transaction
12 is:

13 (A) in substance a disguised supervised small installment
14 loan; or

15 (B) the application of subterfuge for the purpose of
16 avoiding this chapter.

17 **Sec. 4. (a) A debtor may rescind a supervised small installment**
18 **loan:**

19 (1) under the same procedures; and

20 (2) within the same three (3) rescission day period;

21 set forth in Section 125 of the Federal Consumer Credit Protection
22 Act (15 U.S.C. 1635).

23 (b) A supervised lender may not accrue interest during the
24 rescission period described in subsection (a)(2).

25 (c) A supervised lender must make available for disbursement
26 the proceeds of a supervised small installment loan on the later of:

27 (1) the date the supervised lender is reasonably satisfied that
28 the debtor has not rescinded the supervised small installment
29 loan; or

30 (2) the first business day after the expiration of the rescission
31 period described in subsection (a)(2).

32 **Sec. 5. (a) Except as provided in subsection (f), a supervised**
33 **lender may charge both of the following charges, instead of the**
34 **maximum finance charge permitted under IC 24-4.5-3-508:**

35 (1) An origination fee for making the supervised small
36 installment loan in an amount not exceeding ten percent
37 (10%) of the principal amount.

38 (2) An installment account finance charge in an amount not
39 exceeding the following:

40 (A) Twelve dollars (\$12) per month for a loan for a
41 principal amount of at least two hundred dollars (\$200) but
42 not more than three hundred dollars (\$300).

(B) Fourteen dollars (\$14) per month for a loan for a principal amount of more than three hundred dollars (\$300) but not more than four hundred dollars (\$400).

(C) Sixteen dollars (\$16) per month for a loan for a principal amount of more than four hundred dollars (\$400) but not more than five hundred dollars (\$500).

(D) Seventeen dollars (\$17) per month for a loan for a principal amount of more than five hundred dollars (\$500) but not more than eight hundred dollars (\$800).

(E) Twenty dollars (\$20) per month for a loan for a principal amount of more than eight hundred dollars (\$800) but not more than one thousand dollars (\$1,000).

(b) The origination fee under subsection (a)(1) is not subject to rebate, except that if a supervised small installment loan is prepaid in full, refinanced, or consolidated not later than sixty (60) days after the date the supervised small installment loan is made, the first ten dollars (\$10) of the origination fee shall be retained by the supervised lender and a portion of the remainder shall be rebated at the rate of one-sixtieth ($1/60$) of the amount of the remainder of the origination fee per day, beginning on the day after the date of the prepayment, refinancing, or consolidation and ending on the sixtieth day after the date the supervised small installment loan was made. However, a supervised lender is not required to provide a rebate under this subsection if the amount of the rebate calculated under this subsection is less than one dollar (\$1).

(c) Upon prepayment in full, refinancing, or consolidation of the outstanding balance of a supervised small installment loan under this chapter, the unearned part of the installment account finance charge under subsection (a)(2) shall be refunded to the debtor according to the actuarial method, calculated as of the next scheduled installment due date following the date of prepayment, refinancing, or consolidation. However, a supervised lender is not required to provide a rebate under this subsection if the amount of the rebate calculated under this subsection is less than one dollar (\$1).

(d) The dollar amounts in subsections (a) and (b) are subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). For the adjustment of the amount of ten dollars (\$10) in subsection (b), the Reference Base Index to be used is the Index for October 1992.

(e) A supervised lender may not charge or contract for any other charge with respect to a supervised small installment loan except

as authorized by this chapter. However, a supervised lender may charge the following for a supervised small installment loan:

(1) A delinquency charge under IC 24-4.5-3-203.5.

(2) A charge under IC 24-4.5-3-202(1)(f) for a returned check, negotiable order of withdrawal, or share draft.

(f) The charges allowed under this section may not be imposed on a supervised small installment loan to a debtor that has more than one (1) loan outstanding with the supervised lender.

Sec. 6. A supervised lender making a supervised small installment loan shall not commit or cause to be committed any of the following acts:

(1) Threatening to use or using the criminal process in any state to collect on a supervised small installment loan.

(2) Threatening to take an action against a debtor that is prohibited by this chapter.

(3) Making a misleading or deceptive statement regarding a supervised small installment loan or a consequence of taking a supervised small installment loan.

(4) Contracting for and collecting attorney's fees on supervised small installment loans made under this chapter.

(5) Entering any other transaction with the debtor that is designed to evade the applicability of this chapter.

(6) Engaging in unfair, deceptive, or fraudulent practices in the making or collecting of a supervised small installment loan.

(7) Charging to cash a check representing the proceeds of a supervised small installment loan.

(8) Including any of the following provisions in a supervised small installment loan document:

(A) A hold harmless clause.

(B) A confession of judgment clause.

(C) A mandatory arbitration clause, unless the terms and conditions of the arbitration have been approved by the director of the department.

(D) An assignment of or order for payment of wages or other compensation for services.

(E) A provision in which the debtor agrees not to assert a claim or defense arising out of contract.

(F) A waiver of any provision of this chapter.

(9) Selling insurance of any kind in connection with the making or collecting of a supervised small installment loan.

Sec. 7. (a) A supervised lender shall disclose to the debtor to

1 whom a supervised small installment loan is made the information
2 required by the Federal Consumer Credit Protection Act.

3 (b) In addition to the requirements of subsection (a), the
4 supervised lender must conspicuously display in bold type a notice
5 to the public, both in the lending area of each of the supervised
6 lender's business locations and in all loan application documents,
7 informing potential borrowers of the following:

8 (1) That the supervised lender may obtain consumer credit
9 information about an applicant from one (1) or more private
10 consumer credit reporting services in determining whether to
11 make a supervised small installment loan to the applicant.

12 (2) That if the supervised lender makes a supervised small
13 installment loan to a debtor, both positive and negative
14 information concerning the debtor's payment activities with
15 respect to the loan will be reported to one (1) or more private
16 consumer credit reporting services.".

17 Page 5, delete lines 35 through 42.

18 Delete page 6.

19 Page 7, delete lines 1 through 21.

(Reference is to SB 70 as introduced.)

and when so amended that said bill do pass .

Committee Vote: Yeas 8, Nays 0.

Senator Paul, Chairperson